

January 8, 2010

Sent Via E-Mail to Pam Simpson

Mr. Eric Nordman
National Association of Insurance Commissioners (NAIC)
2301 McGee Street, Suite 800
Kansas City, MO 64108

RE: Documents related to the Insurer Climate Risk Disclosure Survey

Dear Eric:

This letter is in response to the request by the Climate Change and Global Warming (EX) Task Force for comments on the following three items pertaining to the Insurer Climate Risk Disclosure Survey:

- A prototype cover letter for use by state insurance departments that explains the purpose of the survey;
- A prototype of the survey formatted in Zoomerang software;
- A list of insurance companies by state, based on the direct written premium of the largest entity within the insurer group.

NAMIC has no comment on the third item, but we do wish to comment on the first two. In addition, we'd like to share some observations about the current controversy surrounding climate science and its relevance to the insurer climate risk disclosure process.

The Cover Letter

Missing from the cover letter is any indication that all survey responses will be made public, with company respondents identified by name. While the survey instructions in the Zoomerang survey prototype clearly state that "survey responses are public information" and that "the NAIC shall coordinate a user-friendly central access point for the survey document and insurer responses," we think this information is important enough that it should be prominently disclosed in the cover letter as well.

Moreover, given that according to the cover letter, the purpose of the survey is to "assist regulators in assessing insurers' risk assessment and management efforts relate to climate risk," we believe it would be helpful if the letter were to explain how public disclosure of insurer responses will advance that purpose.

The letter's first sentence states in part: "This letter is to inform you that [insert state, commonwealth, territory] has decided to participate" in the NAIC climate risk survey. This sentence correctly implies that states must choose of their own volition whether to administer the survey. The NAIC cannot compel states to participate; rather, the decision whether to administer the survey is a policy choice that each state's commissioner will make, recognizing that he or she is accountable to that state's governor or, as the case may be, to its voters.

We raise this point because of recently published statements attributed to Task Force Chairman Joel Ario, in which Commissioner Ario suggests that if a state declines to participate in the survey, another state with jurisdiction over a domestic company from a group domiciled in the non-participating state could independently administer the survey to the relevant group and require it to respond. This notion, which is mentioned nowhere in the survey instructions and, to our knowledge, was never discussed during the extensive deliberations that preceded the NAIC's adoption of the survey, would appear to permit a state to infringe upon another state's sovereign jurisdiction over insurer groups domiciled in that state. If the Task Force now wishes to alter the original understanding concerning jurisdictional authority for administering the survey, we believe this change should be subject to a vote by the full Executive Committee.

The Zoomerang Survey

Several questions at the beginning of the survey have been formatted to allow respondents to give a simple "yes" or "no" response to questions about the company's plans and procedures for addressing climate risk. A "yes" response would require the company to provide a description of the relevant plans and procedures. A company that responded "no"—indicating that it had no relevant plans or procedures in place—could simply skip to the next question. We think this approach makes sense. However, perhaps because of a drafting oversight, this approach is not followed consistently throughout the entire Zoomerang survey. Specifically, it does not provide a yes/no option for questions 6, 7, 10, 11, and 12.

This problem can be easily remedied. For example, Question 6 should be preceded by a question that asks, "Does the company have a process for identifying climate change-related risks?" Similarly, Question 7 should first ask, "Does the company believe that climate change presents unique or extraordinary risks that could affect the company's business?" Question 10 should first ask, "Has the company taken steps to encourage policyholders to reduce the losses caused by climate change-influenced events?" Question 12 should first ask, "Is your company taking actions to manage climate risk," etc.

As noted above, the addition of these prefatory "yes/no" questions would be consistent with the use of similar yes/no questions that already appear elsewhere in the survey. It would also have the salutary effect of making the questions appear somewhat less prescriptive—that is, it would lessen the impression given throughout the substantive portions of the survey questionnaire that companies *should* be taking the various "steps" and "actions" described in the questions, and that if they are not, they owe regulators and the public an explanation as to why they are not.

Finally, we recommend that a space be provided at the end of the survey for companies to disclose any additional information or to offer comments not directly elicited by the survey

instrument. The instructions for this section might, for example, invite companies to offer suggestions for improving the survey instrument in the future, or comment on the current controversy over the state of climate science.

Relevance of Recent Revelations Regarding Climate Science

In the months leading up to its adoption by the NAIC, NAMIC presented several arguments opposing the survey. One of these was that there is simply too much uncertainty about the nature of climate change—e.g., the rate at which it is occurring, the extent to which it is caused by human activity, its relationship to natural catastrophes such as hurricanes and droughts, and the economic trade-offs that would be entailed by various actions that might be taken to prevent further warming—for regulators to assume that all insurers have a material exposure to “climate risk” sufficient to justify mandatory “disclosure” of this purported risk to regulators and the public. Survey proponents replied that because uncertainty is inherent in any type of risk assessment, uncertainty about climate change shouldn’t prevent insurers from assessing the risks associated with climate change, nor should it prevent regulators from inquiring about the results of those assessments. At the same time, proponents suggested that there was little room for doubt that “global warming is occurring,” as a 2008 Task Force white paper unequivocally declared. The white paper disposed of the debate over the extent and consequences of anthropogenic global warming in a single sentence: “[The Task force] believe[s] that there is ample evidence in support of this assumption in a variety of other reports and studies, so we have decided not to focus on the scientific aspects of global warming.”

That decision was certainly questionable in 2008. Today, it is untenable in our view. The unauthorized release in November 2009 of thousands of e-mails containing correspondence among scientists affiliated with the University of East Anglia’s Climate Research Unit (CRU) makes clear that insurers, regulators, and anyone else with a serious interest in climate change cannot afford the luxury of simply assuming that the “reports and studies” to which the Task Force white paper alludes present an accurate and unbiased picture of what is known about climate change.

The CRU e-mails show that a close-knit group of the world’s most influential climate scientists actively colluded to subvert the peer-review process (and thereby prevent the publication of research by scientists who disagreed with the group’s conclusions about global warming); manufactured pre-determined conclusions through the use of contrived analytic techniques; and discussed destroying data to avoid government freedom-of-information requests.

Viewed collectively, the CRU e-mails reveal a scientific community in which a group of scientists promoting what has become, through their efforts, the dominant climate-change paradigm are at war with other scientists derisively labeled as “skeptics,” “deniers,” and “contrarians.” The insularity and non-collegiality of these climate scientists had previously been noted in a 2006 report to Congress prepared by a committee of statisticians led by Dr. Eugene Wegman of George Mason University. The Wegman Report examined the body of research behind the widely-publicized “hockey stick” graph, which purported to show a dramatic and unprecedented increase in average global temperature during the twentieth century. After thoroughly discrediting the hockey stick graph, the report observed that “authors in the area of

paleoclimate studies are closely connected and thus ‘independent studies’ may not be as independent as they might appear on the surface.” The report further noted “the isolation of the paleoclimate community,” concluding that “even though they rely heavily on statistical methods, they do not seem to be interacting with the statistical community.” When members of paleoclimate community were asked to explain and defend their work, “the sharing of research materials, data and results was haphazardly and grudgingly done.”

In short, because serious questions have been raised about the integrity of contemporary climate science, NAMIC believes it would be exceedingly risky for any insurance company to make important business decisions based on an uncritical acceptance of the dominant scientific paradigm on climate change. Put differently, we believe there is considerable risk involved in an approach to assessing “climate risk” that assumes the validity of any particular theory or set of beliefs about anthropogenic global warming.

Companies that share our perspective should be encouraged to do so in their responses to the Climate Risk Disclosure Survey. We fear, however, that the wording of the survey questions, together with the public pronouncements of some regulators, will inhibit the expression of what might be viewed as unwelcome “contrarian” responses. This fear was reinforced by the overall tone and substance of the Task Force-sponsored Climate Risk Summit that took place in San Francisco on December 9, 2009. Rather than thoughtfully assess the implications that the CRU e-mail scandal holds for insurers and the Climate Risk Disclosure Survey process, all but one speaker ignored the matter entirely. That speaker, in facilely dismissing the e-mail scandal as a plot hatched by malevolent “contrarians,” personified the doctrinaire partisanship and intolerance toward dissent that is so clearly displayed in the CRU e-mails.

In conclusion, we realize that it is probably not feasible at this point to revise the survey to take account of the issues and concerns raised above. However, NAMIC hopes the Task Force will consider revising the prototype cover letter along the lines suggested, which could serve to enhance the quality and candor of insurers’ responses. We stand ready to provide any assistance you may require.

Sincerely,

A handwritten signature in black ink that reads "Robert Detlefsen". The signature is written in a cursive, flowing style with a long, sweeping underline.

Robert Detlefsen, Ph.D.
Vice President, Public Policy